

UNITED STATES OF AMERICA

DAMIAN ANTONIO MURPHY,

Case No. 1:06CR00062

ORDER

By: James P. Jones
United States District Judge

1. The defendant's Motion to Strike (ECF No. 285) is GRANTED, and his initial motion seeking relief under Fed. R. Civ. P. 60(b) (ECF No. 283) is TERMINATED AS MOOT;

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3. The Clerk is DIRECTED to redocket the motion (ECF No. 286) as a § 2255 motion;

4. The § 2255 motion is hereby DENIED without prejudice as successive; and

5. A Certificate of Appealability is DENIED, based upon the court's finding that the defendant has not made the requisite showing of denial of a substantial right.

ENTER: May 8, 2012

/s/ James P. Jones
United States District Judge